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March 15, 1996

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FEDERAL COMMUNICATIONS COMMISSION
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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

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Dear Mr. Caton:

On behalf of Capital Cities/ABC, Inc., transmitted herewith for filing with the Commission are an original and five copies of its Comments in MM Docket No. 95-176.

If there are any questions in connection with the foregoing, please contact the undersigned.

Sincerely,

Roger Goodspeed

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)
)
Closed Captioning and Video) MM Docket No. 95-176
Description of Video Programming)

COMMENTS OF CAPITAL CITIES/ABC, INC.

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March 15, 1996

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To: The Commission

COMMENTS OF CAPITAL CITIES/ABC, INC.

Capital Cities/ABC, Inc. ("Capital Cities/ABC"), a wholly-owned subsidiary of The Walt Disney Company, submits herewith its Comments in response to the Notice of Inquiry ("Notice") and Order in the above-entitled proceeding.¹ Capital Cities/ABC owns and operates the ABC Television Network and ten television broadcast stations.

The Commission initiated this inquiry to assess the current availability, cost, and uses of closed-captioning and video description. Following enactment of the Telecommunications Act of 1996,² the Commission extended the time for comment in this proceeding to provide parties an opportunity to focus on the information needed to implement the provisions of the Act. The Act

¹ MM Docket No. 95-176, Notice of Inquiry, FCC 95-484 (released December 4, 1995); MM Docket No. 95-176, Order, FCC 96-71 (released February 27, 1996).

² Pub. L. 104-104, 110 Stat. 56 (1996).

requires that the Commission complete an inquiry on the current level of closed-captioning within 180 days of enactment.

In these comments, we will respond to the Commission's inquiry by providing the latest information available concerning closed-captioning and video description in programming on the ABC Television Network and on the Capital Cities/ABC-owned stations. We also comment on the effect of the implementation of ATV, particularly as it relates to facilitating the transmission of video description. With respect to the economic burden mandatory closed-captioning would impose on program producers, these comments address the issue primarily as it relates specifically to the ABC Television Network and the ABC owned stations. However, we do not purport to speak for the television broadcast industry, particularly small and medium market stations. We understand the NAB will be addressing those questions in its comments.

Capital Cities/ABC supports the Commission's effort to "make television programming accessible to all Americans."³ Indeed, the company and its predecessor, American Broadcasting Companies, Inc., has been one of the primary forces behind the development and application of closed-captioning for broadcast television. We also agree with the Commission -- and with the principle underlying the section of the Telecommunications Act concerning mandatory captioning exceptions -- that a balance must be struck between providing disabled Americans with access to television programming and the costs imposed on program producers, suppliers and

³ Notice, para. 2.

distributors in providing such access.⁴

Introduction and Summary

The ABC Television Network has been a leader in the creation and use of closed-captioning in television programming. In 1971, ABC's Broadcast Operations and Engineering department invented the first method by which closed-captions feasibly could be inserted into programming. In early 1972, ABC and the National Bureau of Standards presented the first on-air demonstration of a completely closed-captioned program at Gallaudet College, the foremost college in the country for educating deaf and hearing impaired persons. In 1974 PBS began offering closed-captioned broadcasts of the "ABC Evening News."

Since then ABC has consistently been in the vanguard of network closed-captioning, broadcasting the first closed-captioned entertainment special in 1980, the first captioned regularly scheduled news program and live sports and live news events in 1981, the entire ABC Sports coverage of the 1984 Summer Olympics with closed-captioning, and the entire ABC prime time program schedule with closed-captioning in 1985. ABC was cited in 1979 by Secretary of Health, Education and Welfare Joseph A. Califano, Jr. for its eight-year efforts in the development of an industry-wide closed-captioning program, and since then ABC personnel have received several awards from institutions and associations for the

⁴ Notice, para. 29. See Telecommunications Act, sections 305(d) and (e).

deaf to honor their work on closed-captioning.

Today almost all of the programming supplied by the ABC Television Network to its affiliated stations is closed-captioned.⁵ Some of the costs of that captioning are funded by the U.S. Department of Education and by private organizations, with the balance funded by Capital Cities/ABC. The ten television broadcast stations owned by Capital Cities/ABC supply closed-captioning for much of their local news programming and carry many syndicated programs with closed-captioning.

With respect to video description, neither the ABC Television Network nor the ABC owned stations currently supplies that service or has the equipment to be able to do so. The introduction of ATV

⁵ There are three basic forms of closed-captioning:

(1) In "off-line" captioning, used for materials produced before broadcast, the audio portion of the program is transcribed and added in synchronization with the video content. Off-line captioning can take from fourteen to twenty hours for an hour-long program.

(2) In "live display" captioning, pre-scripted portions of a live show are used to prepare captions that are inserted during broadcast into the program live by a technician (or by a computer programmed using special time codes to insert the captions in synchronization with the program). Live display takes, on average, about seven hours per hour of program. A variant of "live display" captioning, often referred to as "electronic news room captioning," is used by stations to caption local news programs. In that method, the captions come from the text in the stations' news script computers -- the system that drives the studio teleprompters -- and therefore there are no captions inserted into live, unscripted news reports.

(3) In "live" or "real-time" captioning, a specially trained "stenocaptioner" transcribes the audio portion of a live program as it airs. Because of the transcription and computer processing required, live captioning appears on the screen about three seconds after the corresponding audio content.

will make including video description in television programming both less costly in terms of capital expenditure and substantially more feasible as a technical matter by providing an auxiliary audio channel dedicated to such a use. To deliver an additional audio channel in the NTSC programs over the network would require a substantial capital investment in equipment that would not be useful in the ATV system. Even with the new video-description channel provided by ATV, the production expenses for including video description in programming will still be substantial.

I. Closed-Captioning

A. Closed-Captioning on the ABC Television Network

The ABC Television Network offers on the average about 90 hours of programming each week to its affiliated stations. The substantial majority of ABC network programs are closed-captioned. The major exceptions are (a) World News Now, offered for broadcast Monday through Friday at 2:00 AM to 6:00 AM, NYT;⁶ and (b) live regionalized sports events -- such as college football and basketball and major league baseball.⁷

⁶ World News Now is a two-hour, rotating block of news programming made available in the early hours of each weekday to affiliates with new material added to rotations as news events require.

⁷ Commercials and paid political programs are not captioned on the network unless they are supplied to ABC already captioned, and taped sports events representing a small portion of the ABC Sports schedule that are not eligible for federal funding are also not captioned.

Because World News Now is broadcast in the early hours of the morning and is not cleared by all of ABC's affiliated stations, it has low viewership levels. In our judgment, the cost of closed-captioning has not been warranted by the ratings and advertising revenues generated by the program.⁸

Similarly, ABC Sports' regionalized coverage of certain events means that there might be as many as fourteen different games being delivered at the same time to different ABC stations in various parts of the country. The viewership of any one game is naturally a fraction of the viewership of a similar nationally televised event. Here too, the cost of captioning would not be warranted by the advertising revenues and ratings attributable to a single game.⁹

The ABC Television Network has entered into agreements with closed-captioning suppliers to have captioning inserted into all ABC-produced shows (with the exceptions noted above) -- including news, sports, children's and entertainment programming -- and into

⁸ World News Now generated a national rating of .8 for households in November, 1995. For the same period, Good Morning America (7:00-9:00 AM, NYT) generated a 4.4 rating, and World News Tonight (6:30-7:00 PM, NYT) generated a 9.8 rating. Those ratings mean that, respectively, about three and one-half million and eight and one-half million more people watched Good Morning America and World News Tonight than watched World News Now. World News now is cleared in about 84% of the country, compared to 99.7% clearance for Good Morning America and World News Tonight.

⁹ In any event, there is likely insufficient live-captioning capacity now to closed-caption the entire weekend regionalized sports schedules on the national broadcast networks.

programs produced by third parties.¹⁰ The network pays roughly \$790 to \$1,200 per hour for off-line captioning, \$500 to \$550 per hour for live-display, and \$390 to \$650 for live captioning. The network's average cost for all captioned programming is about \$695.

Funding to supply closed-captioning on the ABC Television Network comes from several sources. Captioning grants from the U.S. Department of Education are directed to various program distributors and for various dayparts.¹¹ ABC pays for a substantial portion of the network closed-captioning, and third-parties also pay for network captioning in exchange for commercial mentions.

In 1996, the direct cost of closed-captioning services for the ABC Network programs will be about \$2,840,000. Of that, ABC will contribute about 46% -- around \$1.3 million -- the Department of

¹⁰ Only two program series produced by third parties and broadcast on the ABC Television Network have ever been delivered to ABC already captioned at no direct cost to ABC.

¹¹ Grants are typically issued by the Department of Education ("DOED") in three-year, daypart specific categories to captioning providers. Some grants have co-funding requirements attached (e.g., the current Primetime Movies & Mini-Series grant requires a 1/3 contribution from the broadcaster). Once Congress has made an annual appropriation to the DOED, the department allocates some of that funding to captioning, establishes priorities for dayparts and programs, and awards grants to captioning providers that have applied for federal funding. Winning applicants supply proposed budgets and program selections for approval by the DOED.

Congress must approve the DOED budget each year, and if the DOED appropriation is cut, captioning funding can decrease within a three-year grant cycle. This year in particular is unique because three daypart captioning grants which affect ABC will expire on September 30, 1996: News, Children's and Primetime Movies & Mini-Series. The DOED has recently solicited captioning applications, but since Congress has not yet allocated any renewed captioning funding, there is no guarantee that funding will exist after September 30, 1996.

Education will pay about 45%, and private contributors will pay about 9%.¹² In addition to the direct costs, ABC personnel and overhead adds an additional annual cost to ABC of about \$300,000. ABC's captioning staff includes a closed-captioning manager, two full-time captioning coordinators and six part-time coordinators (three in New York and three in Washington, DC).

B. Closed-Captioning on ABC Owned Stations

Capital Cities/ABC owns and operates ten television broadcast stations around the country.¹³ Roughly one-half of their programming is supplied by the ABC Network with captioning as described above. On average, about 74% of all programming broadcast by the ABC-owned stations is closed-captioned in some form.

From one-quarter to one-third of the ABC stations' broadcasts are movies, syndicated shows or paid programming. Of such programs, roughly 42% are supplied to the stations with closed-captioning. The rest of those programs are broadcast without captions.

¹² Of the third-party captioning contributions, 70% (about 6% of total network captioning costs) come from program producers and 30% (about 3% of total costs) come from network advertisers.

¹³ WABC-TV, New York; KABC-TV, Los Angeles; WLS-TV, Chicago; WPVI-TV, Philadelphia; KGO-TV, San Francisco; KTRK-TV, Houston; WTVD, Durham; KFSN-TV, Fresno; WJRT-TV, Flint; WTVG, Toledo.

All of the ABC-owned stations provide some form of closed-captioning for their local news programs using a mix of live-captioning and "electronic news room" captioning.¹⁴ Live-captioning the local stations' news programming costs up to \$240 per hour.¹⁵ Under the current regime of voluntary captioning, most ABC stations have sold captioning sponsorships that give the sponsors commercial mentions in the closed-captioning or during the newscast as a means of defraying the cost of live captioning. One ABC-owned station -- KGO-TV in San Francisco -- has been unable to do so and pays about \$75,000 per year to live-caption two hours of news Monday through Friday without any sponsorship reimbursement.

In addition to their news programs, the ABC-owned stations broadcast locally-produced public affairs, information/instruction and children's programming. Most of those programs are not currently closed-captioned.

¹⁴ All of the ABC stations comply with the requirement of Rule 73.1250(h) of the Commission's Rules that emergency information be broadcast visually. See Notice, para. 5.

¹⁵ The ABC-owned stations generally pay less for live-captioning per hour than the network pays because the captioning services used to meet the network's requirements have considerably higher overhead costs that are built into their hourly fees. A service providing network captioning must maintain equipment and personnel to caption multiple simultaneous network program feeds to stations in different time zones. In addition, the primary closed-captioning supplier for ABC maintains expensive satellite downlink equipment to receive the ABC programs being captioned and uses at least one captioner and one coordinator -- and often a third or fourth person depending upon the length and nature of the program -- to perform live-captioning. The smaller captioning services typically receive the programming to be captioned by phone line and use only one captioner with no other personnel to perform live-captioning.

C. Captioning Services

There are now six major suppliers of closed-captioning services that service the television networks and other major program suppliers¹⁶ and a host of other services in various local markets throughout the United States. In the early 1980's National Captioning Institute and WGBH/The Caption Center were the only services available. At that time all types of captioning cost about \$2,400 per hour. Today, with more captioning services available, the six major captioners charge from \$790 to \$1,900 per hour for off-line captioning, \$500 to \$800 per hour for live-display captioning, and \$300 to \$1,000 for live captioning. Local captioning services that are used in various markets in the country charge lower prices, but the quality of captioning appears to diminish with the price. For live-captioning many of the smaller captioning services use freelance personnel operating from their homes without the support staff or equipment needed to provide what we consider network-quality captions.¹⁷

D. Mandatory Captioning

The Commission seeks comment on what general form mandatory closed-captioning requirements should take.¹⁸ The Telecommuni-

¹⁶ National Captioning Institute; WGBH/The Caption Center (both not-for-profit organizations); VITAC; Media Captioning Services; Captions, Inc.; and Real-Time Captions, Inc.

¹⁷ ABC expects live captioners to meet a 98.6% accuracy rate, the standard set by the National Shorthand Reporters Association.

¹⁸ Notice, para. 26.

cations Act adds a new section 713 to the Communications Act directing that the Commission prepare a report within six months of enactment reviewing the level of closed-captioning and then within 18 months prescribe regulations ensuring that new programming is closed-captioned and encouraging the captioning of old programming, establishing deadlines for compliance with new captioning requirements, and exempting certain programs or program classes from the requirements.¹⁹

We believe the House report cited by the Commission is correct when it says that it "is clearly more efficient and economical to caption programming at the time of production and to distribute it with captions than to have each delivery system or local broadcaster caption the program."²⁰ If programs licensed for national network telecast are not captioned by the producer, and captioning must be added to them by the networks, then the programs would likely need captioning again each time they are distributed after the network run on cable or to local stations.²¹ Plainly a

¹⁹ Telecommunications Act, section 305.

²⁰ Notice, para. 27, quoting H.R. Rep. No. 204, 104th Cong., 1st Sess. 114 (1995).

²¹ We have seen that situation already. Children's and prime-time programming captioned by ABC for telecast on the network was later distributed on a cable channel, but because the ABC time codes for captioning were incompatible with the cable systems' specifications, the cable presentations were uncaptioned. Even if a later distributor could use the network's captioning time codes, if that distributor edits the program content, then the network captioning could not be used without reconfiguration. If the program producer delivers a master tape to all distributors with closed-captioning already recorded in the tape -- a process that cannot be accomplished after the fact -- then all distributors will be able to pass the captioning through to their viewers.

program producer -- who will presumably have the program's script available in a computer data base -- will find adding captioning less burdensome and expensive than parties down the distribution chain.

More than half of the syndicated and paid programs broadcast by the ABC-owned stations in their local markets are not captioned, but it would plainly be inefficient and unduly burdensome to require those stations -- along with every other station broadcasting the same shows in other markets -- to add closed-captioning. Parties producing and distributing television programs are best situated to perform the captioning and spread the costs among buyers in the 200-plus markets around the country.

Mandatory captioning should be phased in slowly to allow affected parties to prepare for the substantial new burden imposed. Indeed, the burden on networks will increase if federal captioning funding is not maintained at current levels. If federal funding was withdrawn -- no funds have been appropriated by Congress to date for captioning in 1997 -- ABC would pay more than \$1 million above its 1996 costs to maintain the current level of network captioning in 1997. Moreover, under a scheme requiring producers to caption their programs, producers of the roughly 58% of the syndicated and paid programs delivered to the ABC-owned stations without captions would need to find captioning suppliers and negotiate contracts. Once having made those arrangements, those producers would undoubtedly seek to pass on their captioning costs

to buyers.²²

Mandatory captioning will impose substantial costs on local stations. Live captioning 25 hours of local news programs per week at the modest rate of \$200 per hour would cost a station over \$250,000 each year. Stations should be given substantial time under new regulations before they must closed-caption locally produced programming. A phase-in period would allow stations to budget for new captioning costs and encourage the forging of voluntary partnerships between stations and advertisers or organizations to fund captioning costs.²³

We propose that certain types of programming be exempt from the mandatory captioning requirement. Network regionalized sports telecasts and late-night news programs should be exempt because they generate relatively low advertising revenues and ratings. Locally originated sports programs should be exempt from the

²² Phasing in mandatory captioning would also give the television manufacturing industry time to correct technical problems in television receivers that interfere with the delivery of closed-captioning. Our network engineers have discovered that certain television sets contain closed-caption decoding circuitry that may "lock on" to the wrong field of line 21 of the vertical blanking interval, or on the wrong line of the blanking interval, and therefore fail to display properly the captions in a program. See Notice, para. 4 (describing requirement that certain television receivers be equipped to receive and display closed-captions). Such receivers apparently fail to meet the requirements of Rule 15.119 of the Commission's Rules.

²³ Phasing in mandatory captioning would also provide the opportunity to existing captioning services to increase capacity and quality and to allow new services to open to meet the new demand. Current live-captioning capacity is undoubtedly inadequate to meet the demand during the evening hours when many hundreds of local news programs are being broadcast simultaneously around the country.

captioning requirement because of the substantial expense mandatory captioning would impose and the diminished need for captioning on such programs. A station broadcasting a local sports franchise would incur significant live-captioning costs; an annual baseball schedule of 80 three-hour games would cost about \$48,000 for live captioning at \$200 per hour. We submit that such a cost would be disproportionate to the benefits gained. By its nature television sports coverage gives even the hearing-impaired viewer most of the significant program content. Captioning is not essential to understand the progress of the game -- indeed, the experience would approximate attending the game live -- and conventional scoreboard and background graphics customarily supply much information that is given in the play-by-play.

II. Video Description

Currently neither the ABC Television Network nor the ABC-owned stations provide video description with their programming. As described below, to provide the service in the current NTSC format would require a substantial capital expenditure, much of which would be wasted upon conversion to ATV. In addition, production of a video description service would add a substantial cost to program production that might be out of proportion to the benefits afforded by the service and discourage some program production or distribution.

The only means now available to offer a video description service regularly is the Second Audio Program channel, by which a

third audio signal -- in addition to the two audio channels customarily delivered in network programs -- can be sent to viewers. The ABC Network and the owned stations do not have the capacity at present to deliver a third audio feed with network programming. To do so, the network would need to buy extensive new equipment and revamp its production facilities to permit the creation, recording and routing of a third audio channel at the network's various production facilities, and add new capacity to the network satellite distribution system (at the network and at the over 200 affiliate receiving stations around the country) to make room for the third channel.²⁴ At the owned stations (and at most other ABC-affiliated stations), master control facilities would need additional equipment to record the extra channel, if necessary, and pass the third audio channel through to the stations' transmitters, which also must be equipped to deliver the additional channel.²⁵

Although we are not able at the moment to give a precise estimate of the costs involved to provide third-channel capability throughout the network delivery system, they would be considerable. The upgrades required at the network production facilities and the over 200 affiliated stations could cost many hundreds of thousands

²⁴ About 50 ABC stations have network satellite receiving stations separated from their studios. At those stations, the microwave or other link between the receiver and studio would need to be amended to carry the extra audio channel.

²⁵ Making such technical advances at all of the ABC-affiliated stations could take a long time. Over ten years after the ABC Network began offering stereo sound, about 15% of the ABC stations have not yet installed equipment to deliver stereo to viewers.

of dollars, and we have rough internal estimates suggesting that upgrading the network satellite delivery system (at the network uplink end and at all the affiliate downlinks) could cost on the order of \$300,000. Most of that upgrading would be unusable once ATV was in place.

The implementation of ATV would render delivery of a video description service not only less costly -- in terms of capital expenditures -- but considerably simpler from a technical standpoint. The current ATV standard includes a provision for several audio channels in addition to the standard stereo audio feed. As the ATV system is installed (at the cost to the networks and local broadcasters of many millions of dollars) from the network production facilities through to the local station, the capacity for a video description channel (along with other extra audio components such as a second-language feed) will be created. The ATV standard includes an audio channel specifically designated for video description services in addition to main audio channels available for English and foreign-language services and several other auxiliary audio channels.²⁶

In our judgment, it would not be wise for stations to be required to incur the capital costs of video description in NTSC. The system would be made obsolete by ATV and should not be imposed at a time when the stations will also have to incur the costs of making the transfer to ATV which have been estimated at \$8 to \$10

²⁶ ATSC Digital Television Standard, Doc. A/53, Annex B at 30-33 (Sept. 16, 1995).

million dollars per station to reach full studio production capability.

Even with the ATV technical capacity achieved, the delivery of video description would require production of the descriptions. As the Commission recognizes, such production would likely be an extremely expensive proposition.²⁷ Any consideration of making video description mandatory should carefully balance the considerable cost of providing such a service against the usefulness of the service in different kinds of programming, the size of the market that would find video description useful, and the financial ability of various program producers to provide the service.

Respectfully submitted,

By:



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²⁷ Notice, para. 18 (citing estimates of \$2,000 to \$5,000 to video-describe one hour of programming).